
REFERENCE: WIC PROCEDURE MANUAL

Page #

- A. Cost Containment Measures
 - B. Funds Monitoring/498 Reporting
 - C. Participation Reporting
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INFANT FORMULA REBATES

GOAL: To implement a cost-savings measure whereby additional participants may be served and to optimize the level of services to eligible persons.

I. Initiative

A. Type of Cost-Saving

The South Dakota Department of Health WIC Program jointly issued with the Nebraska Department of Health and Human Services and the Cheyenne River Sioux Tribal WIC Program an Invitation to BID (ITB) for a rebate on milk-based infant formula purchased in our WIC Programs.

The State Agencies individually contracted with one manufacturer whose qualifying non-exempt milk-based and soy-based infant formula are to be designated as the standard sole authorized brands of infant formula.

Potential manufacturers submitted a proposed rebate amount for milk-based infant formula, with the same percentage rebate for other non-exempt formulas that are designed for use for full-term infants (from birth to 12 months of age), that can be appropriately issued to the majority of WIC infants.

The contractor must also pay a rebate amount for those other non-exempt formulas as defined by USDA. The rebate on any other non-exempt formula must yield the same percentage rate as the milk-based formula on which the contractor submitted the ITB.

The State Agencies/ITO's selected Mead Johnson as giving the lowest annual net wholesale cost for infant formula to the State Agencies/ITO's and assured they could comply with the provisions of the ITB.

II. Implementation

A. Date and Coverage Area

Implementation will be statewide October 1, 2003, in South Dakota.

B. Retail Distribution System

The current retail distribution system remains intact with most formula being issued to participants through a check system whereby WIC food instruments are

exchanged at any one of the authorized retailer's stores. Food Instruments are brand, type and form specific.

C. Contracts

A contract between the South Dakota Department of Health, WIC Program and Mead Johnson for a period of three years beginning October 1, 2003 through September 30, 2006, with the option of three separate one year extensions, effective October 1, 2007.

III. Accountability System

A. Methodology Used for Rebates

1. Brand Specific Check Redemption

A report is generated monthly from our automated data processing system specifying checks redeemed by brand, type, and quantity.

2. Amount of Rebate

The amount of rebate is calculated from: the computer report identifying the number of cans of formula redeemed and the rebate per can offered from the formula company.

3. Billing

The company is billed monthly. The state calculates the amount of reimbursement payable to the WIC Program using the redemption report and the rate of rebates from the respective company. The redemption report, specifying the number of cans redeemed for an issued month in three forms: liquid concentrate, powder, and ready-to-feed, and by brand accompanies the bill as documentation. Rebate payments from the company are made to the WIC Program within thirty days after receipt of the billing from the state.

B. Fiscal Accountability of Rebates Received

1. Accounting System

A separate accounting system is set up with the fiscal office in receipting in rebates and expending monies from them. Two sub-funds are established: one for food monies and one for administrative expenses. As rebates are received, the conversion policy from USDA establishing allowances for admin and food expenses will be used to deposit in the proper accounts. Monies will be used to support the intended goals of the program.

2. Federal Reporting

Federal reporting of rebate savings will be according to federal guidelines on the FNS-798 Report.

- a. Food obligations reported will be less estimated rebate.
- b. Food outlays reported will include actual costs paid to Retailers for formula.
- c. Rebates received will be subtracted from the food outlays for the earned month in the month rebates were received.

IV. Future Plans

- A. The South Dakota WIC Program will explore interests of other states for a Multi-State Request for Proposal (RFP) and the current expansion clause to either obtain another rebate on WIC infant formula or extend the current contract with Mead Johnson.
- B. Initiate the RFP process and obtain a contract if a new bid process or initiate an extension to the current contract.
- C. Implementation of a new contract or amendment will be October 1, 2006.

- V. Mead Johnson has agreed to extend the Rebate Contract effective October 1, 2003 – September 30, 2006 for the second year of a possible 3 year extension. See Amendment II following the Infant Formula Rebate.

OTHER COST-CONTAINMENT MEASURES

GOAL: To achieve a balance between cost effectiveness and nutrition integrity when designing and tailoring food packages.

I. Background

With the amount of food monies becoming more limited to states due to a variety of reasons: food price increases, fuel costs for shipping, caseload increase, carry-forward monies, and lower infant formula rebates. For best utilization of taxpayer dollars, South Dakota considered other means of cost-containment measures than just infant formula rebates during FFY2003.

II. Measures Taken

- A. Prorated food packages for all participants at the time of initial certification.
- B. Inform participant or parent/caretaker that they do not have to purchase all foods listed on the voucher if they will not use them.
 - 1. At secondary counseling, the participant or parent/caretaker should be asked how the food package is working for them and whether there are any foods or amounts that the participant is not consuming.
 - a. If there are foods not being eaten, the package should be changed. Remind participant that they do not have to pick up all foods on the voucher if they will not use them.
- C. Store brands made available.
 - 1. Store brand juices and cereals were made available for participants to choose from.
 - 2. Store brand cereals are the only cereals approved for purchase by WIC Participants at this time.
- D. Effective July 1, 2005 peanut butter is offered to all WIC participants that are eligible to receive it. This will be evaluated on a monthly basis.
 - 1. Prior to July 1, 2005 peanut butter was offered to only exclusively breastfeeding women.
 - 2. Prior to April 1, 2004 peanut butter was offered to eligible WIC participants every other month.
- E. Effective July 1, 2006 peanut butter was offered to only exclusively breastfeeding women and homeless. This will continue to be evaluated on a monthly basis.

FUNDS MONITORING/FNS-798 REPORTING

The South Dakota WIC Program is funded through the following sources with approximate proportions indicated.

	Food	Total Grant
Federal grant	63%	80%
Infant formula rebates	31%	20%
Vendor recoveries	<1%	<1%

The State Agency's ADP system produces a monthly obligation report based on the expected participants and average value per food instrument type. The reported estimated obligations are determined by averaging the most recent three closed out months. In this manner, inflation factors are included through use of current redemption data.

The State Agency receives rebates from the contracted infant formula companies. The bills are generated monthly by the state agency based on the number of cans issued on redeemed food instruments. The infant formula food instruments specify all types and brands of formula purchased through the retailers. In areas where retailers can not stock special formulas, it is sent directly from the company to the local agency and does not appear on vouchers.

The food instruments are processed through the usual banking channels with a single contracted bank receiving an electronic transfer of funds generated by the State Agency. Retailers are allowed 45 days in which to redeem a food instrument. The State Agency can then completely close out a report month within 90 days.

PARTICIPATION REPORTING

The State Agency counts a participant as an enrollee who has picked-up at least one food instrument or was the breastfed infant or special formula participant during the calendar month. The participation counts are received from the state's computer system.

The State Agency's computer system automatically assigns a priority level based on the enrollee's nutritional risk condition code. Except when an infant becomes a child, the local agency must update the computer system with a revised priority level when a participant changes category.

CONTRACT FOR WIC INFANT FORMULA REBATE

BETWEEN

Mead Johnson & Company
2400 West Lloyd Expressway
Evansville, IN 47721-0001
Referred to as "Seller"

South Dakota Department of Health
WIC Program
615 East 4th Street
Pierre, SD 57501
Referred to as "Buyer"

The parties hereby enter into a contract for Seller to provide rebates to Buyer for Seller's infant formula products sold through authorized retailers pursuant to the Women, Infant and Children (WIC) program in the State of South Dakota in return for Buyer's naming Seller as its primary provider of infant formula pursuant to Buyer's "Invitation for Bid" (IFB) and Seller's selected "Bid" (incorporated herein by reference).

The Buyer's and Seller's duties pursuant to this contract shall begin on October 1, 2003 and end September 30, 2006. The contract may be extended in one-year increments for up to three years beyond the initial contract period, providing such extensions are fully executed prior to the expiration of the term in effect. The Seller must respond to the Buyer's request for extension within 15 days of receipt of the request.

I. THE SELLER

- A. The Seller, as an independent contractor, is not a full or part time employee of the Buyer or any agency of the State of South Dakota.
- B. No facilities, equipment or supplies owned by the State of South Dakota will be used by the Seller in fulfillment of this contract.
- C. The Seller hereto agrees:
 - 1. To reimburse (rebate) Buyer for Seller's infant formulas sold through authorized retailers in the State of South Dakota.
 - 2. To maintain the percentage discount on the wholesale cost per can identified above throughout the length of the contract as well as any extensions. All other provisions of the Buyer's "Invitation for Bid" and this contract also remain constant throughout the length of the contract and any extensions.
 - 3. To pay rebate for each unit of the Seller formula on food instruments redeemed according to II.A.4.
 - 4. To pay the same net percentage on all formula, excluding exempt infant formula, produced by the manufacturer that is issued to WIC participants by the Buyer including subcontracted and new infant formulas. The rebate for each of these other infant formulas will yield the same percentage discount on the wholesale cost as the rebate for the concentrate, powdered and ready-to-feed iron fortified milk-based infant formula.
 - 5. That formulas are readily available in retail stores throughout the state and ensures a sufficient supply of formula to all wholesalers supplying the Buyer's WIC retail stores to meet 100% of WIC caseload beginning October 1, 2003 and continuing throughout the contract period and any extensions.

6. To notify the Buyer in writing, 90 days prior to implementation if Seller introduces a new infant formula, and/or replaces, reformulates, relabels and/or produces in a different can size any non-exempt formula during the term of the contract. The product must be supplied to the Buyer at the rebate amount which yields the same percentage discount on the wholesale cost as the product replaced.
7. That in the event the Seller introduces a new infant formula which meets the nutritional requirements of the Federal Regulations, and is approved by the Buyer, to be used as a substitute for one of the contract brands of formula, the rebate for the new product will be the same percentage discount on the wholesale cost for formulas of comparable container size already covered by the ITB.

The Buyer is not obligated to add new, new-substitute, alternative, or change in can size, non-exempt infant formula to their WIC issued formula listings.

8. To pay the contracted rebate amount for non-contracted, FDA approved formula of the same type or form purchased, as evidenced by the number of units on food instruments redeemed, through the Buyer's WIC Program until the contracted formula can be supplied or until a new contract is issued, if the Seller is unable to supply any type, form, or brand of contracted formula. If deemed necessary by the Buyer, the Buyer may re-bid the contract for failure to supply formula.
9. To remit rebate payments for all formula on food instruments redeemed by participants through the Buyer's WIC Program while the contract is in effect, even though the contract may have expired, been terminated or was void at the time payment is requested.
10. To make rebate payments to the Buyer within 30 days of the date contractor received the invoice from the Buyer for such payments. The Seller's failure to remit payments postmarked within the 30 days results in a charge of one percent (1%) of the unpaid claim for each 30 day period or portion of 30 day period that the claim remains unpaid, per month, accrued on a daily basis which is a twelve percent (12%) annual percentage rate of the unpaid claim for each day the claim remains unpaid. The charge on past-due amounts is included on the subsequent invoice.
11. To advance payment to the Buyer, if the Buyer demands the payments for the months of July, August and September in 2004, 2005, 2006, and, if an annual extension, for the same months of years in which annual extensions are made. This advance payment will be based on the number of units by brand type and form of the Buyer's infant formula on food instruments redeemed for the most recent month data are available. The advance payments for these months must be due within 30 calendar days of receipt of written request. Over/under adjustments for any month advance payment was requested must be made within 45 days after the end of such month and may be adjusted on the next payment due.

To notify the Buyer in writing via a letter with cost sheets attached of any increase or decrease in the national wholesale full truckload price of infant formula no later than the time the notification is given to all other customers of any such increase or decrease. Such notification must include both the effective date and amount of the change. Such notification is accepted by both "Seller" and "Buyer" as automatic amendments to this contract concerning the national

wholesale full truckload prices. The rebate paid by the Seller for any items whose price has been increased or decreased must then automatically adjust the amount of the rebate on a cent-for-cent basis.

The above described change in the manufacturer's rebate must become effective for all WIC food instruments, regardless of the food instrument's issuance date as long as the issuance date is valid at times as described below:

- 1) An increase in the rebate shall become effective on the 1st day of the month that the price increase goes into effect and will include all food instruments redeemed as of the first day of the month that the wholesale truckload price increases.
- 2) A decrease in the rebate shall become effective on the first day of the month after the month that the wholesale truckload price decreases.

12. That any right to claim reimbursement for errors which result in overbilling of rebates be according to the following:

- a. The Seller must notify in writing the Buyer of any discrepancies or errors in rebate invoice within 60 days of receipt of an invoice for infant formula rebate. The notification must contain a description of the disputed amount, possible defect in the claim, and any additional information necessary to enable the Buyer to make such correction if the Buyer deems justified. Statistical inference is not an acceptable method for demonstrating over billed/error amounts. If the Seller fails to notify the Buyer of its discrepancies or errors within the 60 day notification period, any requirement to return funds to the Seller as a result of a discrepancies or overbilling error is waived by the Seller.
- b. That if the Seller disputes the accuracy of the invoice of Buyer, the Buyer will make every effort to validate the billing and correct errors by adjusting subsequent billings to the seller. Upon the Sellers request, within the timelines above, the Buyer may provide records of the quantity, brand and form of formula on which the Buyer's invoice was based. Records of individual applicants and/or participant are confidential and exempt from the request. Seller shall bear the cost of retrieval of such records, and any computer programming costs associated with its request.
- c. The Seller must not withhold, under any circumstances, any rebate payments claimed by the Buyer.
- d. Upon resolution of any discrepancies or errors in favor of the Seller, the Buyer will disburse any funds due within 60 days.
- e. Should an underbilling occur, the Seller must pay the Buyer the entire amount to which the Buyer is entitled.
- f. The Seller waives its right to claim reimbursement from the Buyer for overbilling errors not settled by February 15 following each federal fiscal year, October 1 through September 30.

- D. Seller will not engage in a function or activity involving the use or disclosure of Protected Health Information (PHI) as defined in the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR §164.501.

II. THE BUYER

A. The Buyer agrees to:

1. Print the Seller's brand and form and quantity of contracted formulas on WIC participant's food instruments which will be transacted for the brand, and form of formula identified on the food instrument.
2. Establish a training program delineating the contract formula(s) for clinic staff, clients, and retailers. The training will be reinforced during retailer and local clinic monitoring. Information will be presented to physicians regarding contract brands and the restricted use of non-contracted brands.
3. Accumulate monthly redemptions and generate a report for each redemption month showing the number of units of formula on redeemed food instruments by issuance month, brand, and form. All claims will be made from these reports.
4. Issue an invoice, monthly, that accurately reflects the number of units purchased for a contract month according to the following method that will be used by South Dakota:
 - a. The South Dakota data system collects and stores daily redemption information on all checks processed by the fiscal intermediary. On a monthly basis, this redemption information will be used to compute the average price per unit for each contract brand infant formula for each retail store.
 - b. To determine the number of units of contract brand infant formula eligible for rebate reimbursement, the following process will be used:
 1. Step 1: The data system will determine the dollar value of all food instruments redeemed and the units listed on the redeemed food instruments in each retail store for each type of contract brand formula to arrive at the respective retail store's average price per unit for each type of contract brand formula.
 2. Step 2: The data system will compare the redeemed dollar value of each food instrument against the respective retail store's average price per unit for each type of contract brand formula.
 3. Step 3: If it is determined that the number of units of contract infant formula redeemed is within 95% of that

retail store's average price per instrument, then the maximum number of units issued on the respective food instrument will be billed to the Contractor.

4. Step 4: If the number of units of infant formula redeemed is less than 95% of the respective retail store's average price per unit for each type of contract brand formula listed on the food instrument, then the units being billed will be determined by dividing the redeemed dollar amount on the food instrument by the average price per unit for the retail store for the respective type of contract brand formula listed on the food instrument. The resulting number will be rounded to the nearest whole number.

The Buyer shall calculate the number of units the rebate amounts shall apply to in the following manner:

Total number of units by brand and form printed on food Instruments redeemed, multiplied by the rebate amount for the month the food instrument was issued.

5. Buyer agrees to make available to Contractor, or Contractor's designee, data Buyer determines necessary for establishing quantities of formula by brand and form claimed, as evidenced by the number of units on redeemed food instruments. The sole purpose of providing this data would be to validate Buyer's monthly rebate billing. Contractor's request for additional data would be granted only to the extent that requested data is linked directly to Buyer's monthly rebate billing. Contractor, however, shall not have access to actual or imaged WIC food instruments or other records identifying WIC participants.
6. Send by facsimile transmission the monthly invoice by the 30th day of each month. The Seller shall retain the facsimile transmitted receipt as original claim for payment.

III. ADOPTION BY REFERENCE OF ITB AND SELLER'S PROPOSAL

This contract shall adopt by reference the Buyer's "Invitation for Bid" (IFB), Amendment's 1 & 2 and the Seller's "Bid". This contract and the above documents adopted by reference shall constitute the entire contract. In case of any conflict between the various included documents, the conflict shall be resolved in favor of this contract's provisions.

III. OTHER PROVISIONS

- A. GENERAL AND PRODUCTS LIABILITY INSURANCE COVERAGE: The Seller shall provide adequate general and product liability insurance coverage during the term of this contract. Proof of Seller's general and product liability insurance coverage may be required by Buyer and before acceptance of this contract is effective.
- B. INTEGRATION/CHOICE OF LAW AND FORUM PROVISION: This contract contains the entire agreement between the parties, and may be amended only in writing signed by both parties. Each amendment shall be attached to and become a part of this contract. The terms and conditions of this contract are subject to and will be construed under the laws of the State of South Dakota. The parties further agree that any dispute arising from the terms and conditions of this contract, which cannot be resolved by mutual agreement, will be tried in Hughes County, South Dakota.
- C. TERMINATION PROVISION: The Buyer shall have the sole right to terminate this agreement by giving the other party notice as described below. If notice is so given, this agreement shall terminate at the expiration of the respective time periods described below, and the liability of the parties for the further performance of the terms of this contract shall cease, but the parties shall not be relieved of the duty to perform their obligations up to the date of termination.

- a. The Buyer shall give one hundred eighty (180) days written notice by certified mail, return receipt requested, prior to termination of this contract.
- D. **FUNDING TERMINATION:** This contract depends upon the continued availability of appropriated funds and expenditure authority from Congress, the Legislature or the Executive Branch for this purpose. This contract will be terminated for cause by State if Congress, the Legislature or Executive Branch fails to appropriate funds, terminates funding or does not grant expenditure authority. Funding termination is not a default by State nor does it give rise to a claim against State.
- E. **NONASSIGNMENT/SUBCONTRACTING PROVISION:** Seller shall not assign this contract, or any portion thereof, without the prior written consent of Buyer. Seller's assignment or attempted assignment of this contract, or any portion thereof, without Buyer's prior written consent constitutes a material breach of contract. The Seller may not use subcontractors to perform the services described herein without the express prior written consent of Buyer. Seller will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the Buyer, and to provide insurance coverage for the benefit of the Buyer in a manner consistent with this Agreement. Seller will cause its subcontractors, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.
- F. **SEVERABILITY:** In the event that any term or provision of this contract shall violate any applicable law, such provision does not invalidate any other provision hereof.
- G. **SMOKE FREE WORK PLACE:** Seller agrees that no person may smoke tobacco or carry any lighted tobacco product in any public place or place of employment where any services pursuant to this contract are rendered.
SDCL §§ 22-36-2 to 22-36-4.
- H. **DRUG FREE WORK PLACE:** Provider agrees to encourage all its employees to refrain from using illegal drugs which may affect an employee's ability to perform the essential functions required under the terms and conditions of this contract. State reserves the right to terminate this contract if Provider, or any of its employees or agents, is convicted of using illegal drugs.
- I. **RECYCLING:** To help preserve our natural resources and reduce the need for additional landfill space, State strongly encourages Provider to establish a recycling program, to promote the separation and recovery of recyclable materials, and to transport those recyclable materials to the nearest recycling center.
- J. **PRICE DISCRIMINATION OR PRICE FIXING:** The Seller represents and warrants that it will not violate any existing federal, state or municipal law or regulation concerning price discrimination or price fixing. Seller agrees to indemnify, exonerate and hold the Buyer harmless from any such violation now and throughout the contract period.
- K. **AUDIT REQUIREMENTS PROVISION:**
(EXPENDING \$300,000 OR MORE)
A nonprofit subrecipient, (as well as profit hospitals) (Provider), expending \$300,000 or more in one year in Federal awards, must have an annual audit made in accordance with Office of Management and Budget Circular A-133, Audits of Institutions of Higher Education and Other Nonprofit Institutions and the Auditor General's guidelines.

All audits must be conducted by an auditor approved by the Auditor General to perform the audit. Approval may be obtained by forwarding a copy of the audit engagement letter to the Department of Legislative Audit, 427 South Chapelle, c/o 500 East Capitol, Pierre, SD 57501-5070. On continuing engagements, the Auditor General's approval should be obtained annually. Audits shall be completed and filed with granting agencies by the end of the ninth month following the end of the fiscal year being audited or 30 days after receipt of the auditor's report, whichever is earlier.

Failure to complete audit(s) as required will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and/or awards may be suspended, until the audit is completed satisfactorily.

(EXPENDING LESS THAN \$300,000)
A nonprofit subrecipient that expends less than \$300,000 a year in Federal awards is exempt from Federal audit requirements for that year, but is required by SDCL 4-11-2.1 to file an annual financial report with State. The annual financial report shall report the receipt and disbursement of all federal and non-federal funds. The annual financial report shall be filed and sent to the Department of Legislative Audit, 427 South Chapelle, c/o 500 East Capitol, Pierre, SD 57501-5070.
- L. **PERSONNEL PROVISION:** Neither the Seller nor any employee or agent thereof will hold him or herself out as or claim to be an officer or employee of Buyer and will not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Buyer including, but not limited to, workers' compensation, health, life, malpractice insurance, and retirement membership or credit, and the Seller agrees to assume responsibility for such liabilities.
- M. **CIVIL RIGHTS POLICY PROVISION:** Both parties agree to provide services covered by this contract without regard to race, color, national origin, sex, age or disability as prohibited by state or federal law.

All parties further agree for Supplemental Nutrition Program for Women, Infants and Children (WIC) purposes to comply with the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000 d et. seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et. seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.), and all provisions on non-discrimination, by implementing regulations of the Department of Agriculture that ensure no person shall, on the grounds of race, color, national origin, sex, age of

disability, be excluded from participation in, or be denied benefits of, or be otherwise subjected to discrimination under the WIC Program.

- N. CONTRACT ORIGINAL AND COPIES: An original of this contract will be retained by the Buyer Auditor's Office. A photocopy will be on file with the South Dakota Department of Health and a second original will be sent to Seller.
- O. RECORD RETENTION/EXAMINATION: The Seller agrees to maintain all records that are pertinent to this contract and retain them for a period of three years following final payment against the contract. The Buyer agrees to assume responsibility for these items after that time period. These records shall be subject at all reasonable times for inspection, review or audit by the Buyer, other personnel duly authorized by State, and federal officials so authorized by law.
- P. FEDERAL AND STATE LAWS: Consultant agrees that it will comply with all federal and state laws, rules and regulations as they may apply to the provision of services pursuant to this contract.
- Q. CLOSEOUT: In the event of termination or expiration of this contract, the parties shall reconcile all claims within one hundred and thirty eight (138) days of the date of termination or expiration of this contract, or by the next February 15, which ever is earlier.
- R. AMERICANS WITH DISABILITIES ACT PROVISION: Provider agrees to provide all services required in this contract in compliance with the Americans With Disabilities Act (ADA) of 1990, 42 U.S.C. §§ 12101-12213, and any amendments thereto.
- S. LOBBYING PROVISION: Provider agrees to not use any of the funds received pursuant to this contract for lobbying purposes.
- T. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION: Provider agrees that neither Provider, nor any of Provider's principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any Federal department or agency. Provider will provide immediate written notice to the Department of Health, Division of Administration (600 East Capitol Avenue, Pierre, SD 57501 (605) 773-3361), if Provider, or any of Provider's principals, becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions involving Federal funding.

The name and address of the State WIC Program Director for this contract is:

Rhonda Buntrock, WIC Director
South Dakota Department of Health
WIC Program
615 East 4th Street
Pierre, SD 57501-5070

The representative of the Seller responsible for administration of this contract is:

David G. Dube, Director of WIC Business Team
Mead Johnson & Company
2400 West Lloyd Expressway
Evansville, IN 47721-0001

In the event that different representatives are designated by either party after execution of this contract, notice of the name and address of the new representative shall be given in writing to the other party.

AUTHORIZED SIGNATURE APPROVAL AND ACCEPTANCE

In witness whereof, the Buyer and Seller accept this contract by signing below.

Doneen Hollingsworth
Secretary
Department of Health

Date _____

Seller Signature

Date _____

Print or Type Seller's Name

Laurie Gill, Director
Health and Medical Services
Department of Health

Date _____

Linda Zeller
Finance Officer
Department of Health

Date _____

State Contact Person: _____ Phone: _____

South Dakota State Tax Permit Number 73-001-351140848E-ST-001

SDCL 1-24A-1 states that a copy of all consulting contracts shall be filed by the agency with the State Auditor within five days after such contract is entered into and finally approved by the contracting parties. For further information about consulting contracts, see the State Auditor's policy handbook.

Infant Formula Rebate Amendment

**Contract Amendment 2
For WIC Infant Formula Rebate**

BETWEEN

**Mead Johnson and Company
2400 W. Lloyd Expressway
Evansville, IN 47721-0001**

Referred to as "Seller"

**South Dakota Department of Health
WIC Program
615 East 4th Street
Pierre, SD 57501**

Referred to as "Buyer"

This is an amendment to Contract #GOA081903 between Mead Johnson & Company and the South Dakota Department of Health to extend the length as stipulated in the current contract for a one year period. This is the first one-year increment extension.

The parties hereby enter into a contract for Seller to provide rebate's to buyer for Seller's infant formula products sold through authorized retailers pursuant to the Women, Infant and Children (WIC) program in the State of South Dakota in return for Buyer's naming Seller as its primary provider of infant formula pursuant to Buyer's "Invitation for BID" (IFB_) and Seller's selected "Bid" (incorporated herein by reference).

The Buyer's and Seller's duties pursuant to this contract shall begin on October 1, 2007 and end September 30, 2008. The contract may be extended in one-year increments for up to two additional years beyond this contract period, providing such extensions are fully executed prior to the expiration of the term in effect. The Seller must respond to the Buyer's request for extension within 15 days of receipt of the request.

Dr. Gail Gray, Division Director
Department of Health
Health and Medical Services

Date

Mead Johnson and Company

Date

Linda Zeller, Finance Officer
Department of Health

Date

State Contact: Rhonda Buntrock, WIC Director

Phone: (605)773-4786